

UNITED STATE DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

GARY KENT WEAVER, <i>et al.</i> , Movants,)	
V.)	No. 3:12-MC-31 (PHILLIPS/GUYTON)
JOINT TECHNOLOGY, INC., Respondent.)	
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<i>As related to</i>)	
JOINT TECHNOLOGY, INC., Plaintiff)	No. CIV-11-846M (W.D. Okla.)
V.)	
GARY KENT WEAVER, <i>et al.</i> , Defendants.)	

MEMORANDUM AND ORDER

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and the order of the District Judge [Doc. 17] referring Defendant Gary Kent Weaver and Intervenor Weaver Medical Group, Inc.'s Motion to Quash Subpoena Duces Tecums to Non-Party Dr. Eric Redmon [Doc. 2] and Defendant Gary Kent Weaver and Intervenor Weaver Medical Group, Inc.'s Motion to Quash Subpoenas to Non-Parties Chris Stokely, Whitney Kellam, Michael Oxford, Dr. Eric Redmon, Debbie Henderson, Katie Cox [Doc. 3] to the undersigned for disposition.

The parties appeared before the undersigned on December 14, 2012, for a telephonic motion hearing to address the pending motions to quash. Attorney Adam Rust and Jaclynn

Loney¹ were present representing Movant Gary Kent Weaver, Jr. and Weaver Medical Group, Inc. Attorney Robert Crawford was present representing Dr. Eric Redmon, Synergy Health System, PLLC, and Ambulatory Care Center of Wartburg/Primary Care, PLC. Attorney Paul E. Quigley² was present representing the Respondent Joint Technology Inc.

A subpoena issued pursuant to Rule 45 may command a non-party to both testify at a deposition and turn over documents. See Fed. R. Civ. P. 45(a). Rule 45 directs that a subpoena for production or inspection, separate from a subpoena commanding a person's attendance, must issue "from the court for the district where the production or inspection is to be made." Fed. R. Civ. P. (a)(2)(C). "On timely motion, the issuing court must quash or modify a subpoena that: (i) fails to allow a reasonable time to comply; (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles . . . ; (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or (iv) subjects a person to undue burden." Fed. R. Civ. P. 45(c)(3)(A).

The Court first turns to Defendant Gary Kent Weaver and Intervenor Weaver Medical Group, Inc.'s Motion to Quash Subpoena Duces Tecums to Non-Party Dr. Eric Redmon [Doc. 2]. At the hearing, counsel for Mr. Weaver and the Weaver Medical Group conceded that counsel for Dr. Redmon has filed essentially the same motion on Dr. Redmon's behalf, [Doc. 4], which is also pending before the undersigned. The Court finds that the instant motion is redundant and is moot because counsel for Dr. Redmon has filed for the same relief. Accordingly, Defendant Gary Kent Weaver and Intervenor Weaver Medical Group, Inc.'s

¹ Ms. Loney shall move for permission to appear *pro hac vice* in this Court if additional appearances are necessary in this case. See E.D. Tenn. L.R. 83.5.

² Mr. Quigley shall move for permission to appear *pro hac vice* in this Court if additional appearances are necessary in this case. See E.D. Tenn. L.R. 83.5.

Motion to Quash Subpoenas Duces Tecum to Non-Party Dr. Eric Redmon [Doc. 2] is **DENIED AS MOOT.**

Turning next to Defendant Gary Kent Weaver and Intervenor Weaver Medical Group, Inc.'s Motion to Quash Subpoenas to Non-Parties Chris Stokely, Whitney Kellam, Michael Oxford, Dr. Eric Redmon, Debbie Henderson, Katie Cox [Doc. 3], the Court finds that this motion is not well-taken. The movants have not demonstrated grounds for quashing the subpoena pursuant to Rule 45 of the Federal Rules of Civil Procedure. Specifically, the movants have failed to show that the subpoenas at issue impose an undue burden. Accordingly, and for the reasons more fully stated in the hearing, the Motion to Quash Subpoenas to Non-Parties Chris Stokely, Whitney Kellam, Michael Oxford, Dr. Eric Redmon, Debbie Henderson, Katie Cox [Doc. 3] is **DENIED.**

Consistent with the above rulings, the depositions of Chris Stokely, Whitney Kellam, and Michael Oxford shall proceed as scheduled on December 17, 2012. Respondent Joint Technology, Inc., **SHALL PAY** these persons their fees and mileage prior to the depositions commencing. See Fed. R. Civ. P. 45(b)(1).

IT IS SO ORDERED.

ENTER:

/s H. Bruce Guyton
United States Magistrate Judge